

III. REMARKS

Claims 1, 2, 4-17, and 19-21 have been presented for prosecution and were rejected under 35 USC 102(e) as being anticipated by Radha et al. ("Radha"), US 6,292,512. Applicants respectfully traverse this rejection because Radha fails to teach each and every feature of the claimed invention. In particular, Applicants reassert the arguments previously made that an encoding rate is independent and completely unrelated to a modulation rate.

Consider the following simple example involving two sequential video frames. A first completely blank video frame could be encoded with a single bit, e.g., 0, since it contains no information (bit rate = 1). Conversely, a second video frame with a lot of information may require ten thousand bits to encode its information (bit rate = 10,000). The rate at which the information is then transmitted (i.e., modulated) has nothing to do with the encoding rate required to encode each frame.

Applicants accordingly traverse the following arguments presented in the Final Office Action.

(1) The Examiner states that Radha "explicitly illustrates the concept of such process (e.g. 44, 54) in which a variable modulation rate is assigned to each stream." This is simply not the case. As previously argued, Radha teaches only the concept of a variable *encoding* rate. It is well known that two sets of information can be encoded at different rates – and transmitted at the same rate. The concepts of encoding and modulating are wholly independent of each other.

(2) The Examiner states that with "a scalable (variable) encoding rate, one of ordinary skill in the art would have no difficulty in recognizing that the variable/scalable encoding stream will be variably transmitted over the transmission channel 43." This statement is completely without basis. For example, Radha may choose to encode a first packet of important information

with a high bit rate to capture all of the details – i.e., allocate a large number of bits to capture the information; and may choose to encode a second packet of unimportant information with a low bit rate- i.e., allocate a small number of bits to capture the information. Just because a different number of bits are used to encode each packet does not in any way teach or suggest altering the modulation rate of each packet during transmission. Accordingly, one of ordinary skill in the art would not recognize the need to transmit both at variable rates.

(3) The Examiner states that the transmission (i.e., modulation rate) is dictated by the scalable encoding process. This statement is simply incorrect. As noted above, the modulation rate and encoding process are not dependent upon each other.

In light of these arguments, Applicants respectfully submit that the application is in condition for allowance. Should the Examiner believe that anything further is necessary to place the application in better condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,



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